

### Remarks

This amendment responds to the official action of September 8, 2010.

An objection to the drawings was made for lack of illustration of a cone at the end of a pipe (claim 1), and for allegedly using reference number 1 to refer to both a pipe and a wall rod. Claim 1 has been amended to refer to the conical bracket 22 that is illustrated in Fig. 1 and found in the disclosure, for example, at page 7, lines 1 and 4.

The undersigned may have used reference number 1 loosely in arguments to refer to the wall rod as opposed to the pipe 1. However, reference number 1 appears only once in the drawings (Fig. 1). Reference number 1 is used in the description to refer to pipe 1. Pipe 1 is a part of the wall bracket. The wall bracket (also termed a wall rod) and its included pipe 1 are distinct from the mounting bracket and its pipe piece 21, which is a lengthwise upward extension of the wall rod. The drawings and the description appear to be accurate and consistent with respect to reference number 1. Therefore, applicant requests reconsideration and withdrawal of the objection to the drawings.

An objection to the specification was made with respect to the term "cone" found in claim 1. Applicant has amended claim 1 to refer to the conical bracket 22 mentioned at page 7, lines 1 and 4. The conical bracket 22 is shown in Fig. 1 to be tapered and thus resembling a cone in shape (i.e., conical). Even assuming that the term "cone" has a strictly mathematical connotation (a solid with a surface corresponding to rotation of a right triangle on one of its legs), the term "conical bracket" in the specification is easily understood as a bracket that resembles a cone in shape. In context, the specification discloses a tapering receptacle shape open at the back as illustrated by item 22 in Fig. 1. The objection to the specification is

obviated by the change to "conical bracket" in claim 1. No new matter is presented. See page 7, lines 1 and 4.

The official action includes an objection to claim 12 under 35 USC 112, first paragraph. This objection is based on an erroneous interpretation that the specification as filed only provides for one hose guide and that hose guide is the rear side of pipe piece 21 of mounting bracket 20. The examiner objects to statements saying that the hose is additionally guided between the wall rod and the wall, apparently requiring that anything that guides the hose must be the slotted pipe piece 21.

The examiner is correct to observe that the pipe piece 21 is not located between the wall rod (or pipe 1 of the wall rod) and the wall. Nevertheless, the specification discloses that the invention is configured with the wall support fixing the wall rod at a space from the wall (see braces with webs 18), the wall bracket extending lengthwise from the end of the wall rod and holding the hose in slot along the rear side, so that the length of outlet hose below the part held in pipe piece 21 hangs freely between the wall rod and the wall. That is the additional hose guidance and is supported in the specification at least at page 4, lines 13-15, page 8, line 8. In certain embodiments (see claim 8), the web also can be laterally offset (page 8, lines 6-8), so that the outlet hose can reside directly behind the wall rod as opposed to generally behind the wall rod. Claim 12 is clear and supported by the disclosure.

Claim 12 as amended refers arranging the wall support and mounting bracket to accommodate the hanging part of the outlet hose in front of the wall. The arrangement as claimed is supported by an enabling disclosure and prevents the hose from hanging down in such a manner that the hose gets in the user's way, including at times when the user may swivel the pipe piece 21 of mounting bracket 20 on the upper cartridge bearing 2.

An additional mounting bracket 30 is provided by claims 13 and 15. The additional bracket is an alternative holder at which the shower attachment may be fixed, and which swivels the wall rod as well as being vertically displaceable. The

additional bracket 30 is discussed at the paragraph beginning at page 7, line 10. The disclosure is clear. There is no basis for an objection or rejection under 35 USC §112, first paragraph, and no new matter is presented.

Claims 1, 3, 7-17 and 19 were rejected as indefinite due to the phrase in claim 1, "a substantially perpendicular surface," and the terms "pipe" and "cone." Applicant has more particularly defined the substantially perpendicular surface as being simply a wall, such as a bathroom or shower stall wall, on which the claimed structure is mounted and against which baseplates 7 abut and are fastened (see description beginning at page 5, line 21). As previously discussed, the "cone" is replaced in the claims with "conical bracket." The "pipe" is a pipe piece 21 in the disclosure, namely a pipe that is open by a slot along the back for receiving the outlet hose. Claim 1 is amended to remove the term "pipe" in favor of a recital that the mounting bracket is open along a rear side toward the wall, forming a slot for removably receiving an outlet hose. The claims as amended are definite. No new matter is presented.

Claim 12 has been amended to eliminate any implied requirement that the recited guidance of the hose between the wall rod and the wall means a structure that engages continuously along the length of the hose (similar to the type of engagement along pipe piece 21 of mounting bracket 20). Claim 12 as amended recites that the wall support and the mounting bracket allow the outlet hose to hang freely downwards between the wall rod and the wall. The claim is definite. No new matter is presented. See page 7, lines 6-9.

Claims 1, 3, 7-8, 12 and 14-16 were rejected as unpatentable over a combination of US 2003/0221251 – Tse and US 5,833,192 – Buhrman. Reconsideration is requested in view of the claims as amended. Tse and Buhrman teach wall rods with holders similar to applicant's additional mounting bracket 30 for holding a shower head, but fail to disclose or suggest any structure or functions resembling applicant's mounting bracket for the shower attachment comprising a

lengthwise extension of the wall rod, the mounting bracket being formed as a continuation extending the wall rod upwardly.

In addition to the limitations provided in overcoming the rejections for indefiniteness, applicant has amended claim 1 to include the aspect that a centerline of the mounting bracket lies in a plane that includes a longitudinal axis of the wall rod. This limitation, formerly in claim 16 (now canceled), provides a structurally defined limitation of how the mounting bracket is a lengthwise extension of the wall rod, extending the wall rod upwardly. Neither Tse nor Buhrman nor any routinely justifiable modification of their teaching would lead to the subject matter defined in claim 1 as amended.

US 2003/0221251 – Tse fails to disclose or suggest a showerhead bracket that is a lengthwise upward extension of a wall rod. There would be no benefit apparent to extending the wall rod. Tse already discloses means for mounting the wall rod and means for attaching a shower head. There is no reason to consider eliminating the structures that Tse provides for mounting and for holding of the shower head, and substituting entirely different structures with different functions including managing the shower outlet hose.

The lengthwise extension defined in applicant's claim 1 is specifically a continuation extending the wall rod upwardly, having a centerline that lies in the same plane as the longitudinal axis of the wall rod. In Tse, such an extension would be arranged immediately at the upper end 2. Tse neither discloses nor suggests such a structure.

Buhrman likewise fails to disclose an upward extension of a wall rod providing a mounting bracket as claimed. Buhrman, like Tse, is directed to attaching a wall rod to the showerhead plumbing protruding from the wall, and arranging a holder for the shower attachment handle, wherein the holder is vertically movable and pivotable on the wall rod itself. The prior art does not disclose or suggest the invention. There is no logical basis to expect a person of ordinary skill to believe that it would be beneficial to substitute different mounting arrangements including a lengthwise

extension of the wall rod, providing a different arrangement for attaching the wall rod to the wall rather than hanging it from the shower head plumbing, and including new functions such as swiveling and management of the hanging loop of outlet hose. There is no justification for the substitutions and changes that would meet applicant's claims as a whole.

In conventional prior art wall brackets, holders for receiving a shower attachment handle or hose are different parts from the wall rod. The holders ride up and down along the wall rod. Applicant's claimed structure provides an upward extension of the wall rod in a continuous and elegant shape wherein the conical bracket at the end is the holder. Both Tse and Buhrman use conventional holders that slide on the wall rod. Neither discloses nor suggests the invention defined in applicant's claim 1. Providing an endwise extension of the wall rod in one continuous shape is one of the objects stated in the specification (see page 2, lines 9-15).

Applicant's mounting bracket is open along the rear side with a slot for receiving the hose, thereby keeping the hose out of the user's way. As regards claim 12 the hose hangs down from the bracket and hangs in the space between the wall rod and the wall. This follows from the fact that the slot opening of the mounting bracket faces toward the rear side of the mounting bracket which faces the wall. There is no basis to assert that the hose cannot hang where the disclosure states that the hose hangs. The disclosure provides the structure that causes the hose to hang as claimed. The brace or web 18 on which the wall rod is spaced from the wall does not interfere and according to the disclosure can be offset laterally from the center plane along the axis of the rod.

The rod 1 of Tse and the tubes 30, 32 of Buhrman are not wall-attached rods at all. They attach to the shower pipe that emerges perpendicularly from the wall. In Tse, the support bracket 4 has a channel 14 that hooks over the water pipe 12 emerging from the wall. (See paragraphs [0040] and [0041].) The support bracket 4 of Tse is not structured or intended to function as a mounting bracket for the grip of a hand shower. The grip of the hand shower is inserted in Tse's sliding the bracket 5.

Applicant's conical bracket 22 is the element that holds the handle of the shower attachment. The slot 14 of Tse is not a receptacle as claimed. It is incorrect to assert that in Tse the element 4 corresponds to applicant's mounting bracket 20 for the hose and shower attachment handle. The bracket 4 of the reference is structured differently from that claimed by applicant and is intended solely for attaching the rod over a fixed pipe to the left as shown in figure 2.

In the rejection of claims 1, 3, 7, 8, 12 and 14-16, Tse is relied upon for all aspects in the rejection of claim 1 except for wall supports and a conical bracket for receiving the shower attachment. Reconsideration is requested. It is stated in the official action that "a" longitudinal axis of the Tse rod is where the bracket may pivot, and that "a" centerline of the mounting bracket lies in a plane that includes a longitudinal axis of the wall rod. There is no correspondence between the Tse structure and claim 1 as amended. Tse does not disclose a mounting bracket that continues and upwardly extends the wall rod. Even if one selects arbitrary lines as longitudinal axes and centerlines and ignores the fact that bracket 14 is a shower-pipe-engaging fixture (see Tse's Fig. 2) whereas element 5 is the shower head holder, it is not possible to match the claim language to Tse's device.

Regarding claim 12, the examiner asserts at paragraph 18 of the official action that the person of ordinary skill could take the bottom part of Buhrman's wall rod, which is supported against the wall at the bottom by wall supports 60, and combine it with Tse's mounting bracket 4, and that the result would be a hose guide as claimed. This position is erroneous. Tse does not employ bracket 4 as a hose guide or as a mounting for the handle of a shower head. There is no apparent way that this could be done. Tse's bracket 4 attaches the wall rod to the shower pipe protruding from the wall (see shower pipe 12 in Tse's Fig. 2). Both Tse and Buhrman mount the handle of the shower head to a slider that runs along the outside of the wall bar. Neither reference teaches or suggests applicant's mounting bracket comprising a lengthwise extension of the wall rod, the mounting bracket being formed as a continuation extending the wall rod upwardly, wherein a centerline of the mounting

bracket lies in a plane that includes a longitudinal axis of the wall rod, wherein the mounting bracket is curved and comprises a conical bracket for holding the shower attachment at an end of the mounting bracket and wherein the mounting bracket is open along a rear side toward the wall, forming a slot for removably receiving an outlet hose leading to the conical bracket at the end of the mounting bracket.

Buhrman and Tse do not disclose a mounting bracket that is an endwise upward extension of a wall bar, the mounting bracket having a slot on the rear side receiving the outlet hose, such that below the mounting bracket the hose hangs behind the wall bar. In Buhrman and Tse, the hose hangs from a slider on the front of the wall bar. As seen in Buhrman's Fig. 1, the hose gets in the way of the person taking a shower. Buhrman's Fig. 6 shows an embodiment wherein the wall bar is much farther from the wall, which alleviates interference from the part of the hose between the shower pipe (SP) and the shower head (SH), but not the part hanging down from the shower head, particularly if the slider 72 happens to be slid to the upper end of the wall rod.

Buhrman fails individually and in combination with Tse to meet the elements defined in claim 1 as amended. Claims 1, 3, 7, 8, 12 and 14-16 are properly allowable.

Claims 9-11, 13, 17 and 19 were rejected over a combination of Buhrman and Tse with US 4,726,552 – Warshawsky. Warshawsky is cited for a wall support 80/90, swivel bearing 140 and shower outlet holder 60. Reconsideration is requested. Warshawsky's electric lamp has no aspects relating to wall mounting or hose management. The combination does not supply elements missing from Buhrman and Tse and would not meet the invention claimed as a whole.

If one considered replacing Tse's bracket 4 with Warshawsky's pivoting device, there would be no structure holding Tse's wall rod to the shower pipe. The outlet arm holding Warshawsky's emitting part (the lamp) is not a lengthwise extension continuing the support post upwardly. The arm is perpendicular to the support post. The combination would lack a rear slotted pipe into which the hose

would be received. The hose therefore would hang down from the distal end of the pivoting arm. The rejection of 9-11, 13, 17 and 19 lacks a logical basis and even if the combination is made would not address all the elements of the invention that are positively claimed. There is no support for the rejection of the claims as a whole, including claims 9-11, 13, 17 and 19 and also claim 1, from which all the claims depend directly or indirectly.

Applicant has corrected the matters to which the examiner objected on grounds of enablement or antecedence of corresponding parts of the specification, drawings and claims. The claims as amended are definite. The differences between the invention and the prior art are such that the subject matter claimed as whole is not shown to have been obvious.

Reconsideration and allowance are requested.

Respectfully submitted,

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